

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

ANTHONY C. MAZZONE,

Petitioner,

v.

**Case No. 2:07cv35
(Judge Maxwell)**

JOSE ESPARZA,

Respondent.

**ORDER CORRECTING REPORT AND RECOMMENDATION
ISSUED JUNE 14, 2007**

On June 14, 2007, the undersigned issued a Report and Recommendation (“R&R”) on the petitioner’s Application for Habeas Corpus Pursuant to 28 U.S.C. § 2241. As noted in the R&R, the undersigned directed the respondent to answer the petition within seven (7) days. On May 23, 2007, the respondent filed a Response to the Show Cause Order and a Motion to Dismiss. That Motion to Dismiss addressed the merits of the petition. On June 1, 2007, the respondent filed a Motion to Dismiss as Moot because the petitioner had been released from the custody of the Bureau of Prisons on May 31, 2007.

In the R&R, I recommended that the petition should be dismissed as moot but neglected to recommend a specific ruling on the respondent’s Motions to Dismiss. Therefore the recommendation should read as follows:

Based on the foregoing, the undersigned recommends that the petitioner’s §2241 petition (Doc. 1) be **DISMISSED AS MOOT**. It is further recommended that the respondent’s Motion to Dismiss (Doc. 13) be **DENIED AS MOOT** and the respondent’s Motion to Dismiss as Moot (Doc.14) be **GRANTED**.

IT IS SO ORDERED.

The Clerk is directed to send a copy of this order to the *pro se* petitioner and counsel of record, as applicable.

DATED: November 15, 2007.

/s/ James E. Seibert

JAMES E. SEIBERT

UNITED STATES MAGISTRATE JUDGE